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June 16, 2003

Scott Tomashefsky, Technical Lead  
CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street, MS-32  
Sacramento, CA 95814

Re: Comments of the Department of General Services on June 6, 2003 Workshop on  
Departing Load CRS Exemptions. (Docket 03-CRS-01).

Dear Mr. Tomashefsky:

The California Department of General Services ("DGS") would like to provide you some comments following the June 6, 2003 workshop with respect to the need for customers to have some certainty over their qualification for the CRS exemption, and for the design of a queuing process.

It is critical, from the perspective of customers evaluating certain self-generation options, that their eligibility for a CRS exemption be effectively established well before limited resources are dedicated to the project. The reason for this need is straightforward: project economics can be significantly influenced according to whether the project can qualify for certain cost exemptions or other incentives. This is why clarity regarding qualification for the CRS exemption needs to be established at least on an interim basis, in a manner that is distinct from other regulatory or development steps.

While upfront certainty is critical to project viability, the limited quantity of these exemptions also means that some clearly defined queuing process is necessary to allocate the exemptions and "recapture" any exemptions from projects that will not come to fruition. On the issue of queuing, DGS supports a number of concepts discussed during the June 6 workshop.

Specifically, DGS would encourage the CEC to establish a mechanism to publish the total remaining unclaimed CRS exemptions, those exemptions established or claimed on an interim basis subject to finalization (i.e., those in the queue), and the exemptions subject to pending applications. Because of the existence of the exemption cap and the various annual "tranches," information regarding committed exemptions and those in the pipeline will assist customers and project developers with the timing of their projects.

Regarding the design of the exemption queue, we support the basic "first come, first served" approach. Because of the limited exemptions and the tranches, there should be a means to "cull" the queue of projects that are unlikely to move forward in favor of projects that are likely to become operational more quickly. We believe the suggestion that the culling process begin when some threshold, perhaps 70%, of the applicable exemptions are claimed or pending. Culling would then turn to the oldest claimed or pending applications first. Projects would remain in the queue where there is

an indication of continuing forward progress on the project, such as proof of site control, a pending interconnection request, or other indications that the developer/customer is diligently pursuing the project. This is not unlike the qualifying facility milestone procedure ("QFMP") that was used by the utilities with respect to QF development in California.

In situations where regulatory or other process delays occur that are not completely within control of the project proponent, it may be equitable to allow the project to present some earnest monies to retain its queue position. The purpose of this additional step would be to ensure that under extraordinary circumstances the project could retain its place in the queue for some reasonable period of time in light of the identified delays. In these circumstances this earnest money could be held in escrow pending either the completion of the project (and hence perfection of the exemption), the decision to surrender the claimed exemption (and have the monies returned), or a CEC determination that given the passage of this additional time the project is not likely to be finalized.

One other area should be addressed. Because customers and/or developers are contemplating projects at this time, and because the Commission's rulemaking process cannot be expected to adopt a final rule before the end of the year, we suggest that some interim queuing mechanism be established on an emergency, interim basis to minimize the regulatory uncertainty with the process. This interim mechanism should be based upon the Commission's initial queuing proposal, but be made subject to the final rule with a limited opportunity to cure deficiencies should there be material differences between the initially proposed process and the Commission's final rule. Some type of interim, emergency mechanism will be necessary to smooth the transition between the CPUC's announcement of the limited exemptions and the adoption of the Commission's final rule.

We hope these comments will help with the development of the strawman proposals. DGS looks forward to the opportunity to working with other stakeholders and the Commission on these new rules. Please feel free to contact us if you should have any questions regarding this letter.

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